

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. Sections Affected

Rulemaking Action

R9-28-1301	Amend
R9-28-1302	Amend
R9-28-1303	Amend
R9-28-1304	Amend
R9-28-1305	Amend
R9-28-1307	Amend
R9-28-1308	Amend
R9-28-1309	Repeal
R9-28-1309	New Section
R9-28-1310	Repeal
R9-28-1311	Repeal
R9-28-1312	Repeal
R9-28-1313	Amend
R9-28-1314	Repeal
R9-28-1315	Repeal
R9-28-1316	Amend
R9-28-1317	Repeal
R9-28-1318	Repeal
R9-28-1319	Repeal
R9-28-1320	Amend
R9-28-1322	Repeal

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 36-2901, 36-2903.01(F)

Implementing statute: A.R.S. §§ 36-2903.01(F), 36-2929

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. 3501, September 5, 2008

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mariaelena Ugarte
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Administration proposes the following changes to this rulemaking as recommended and approved by the Governor's Regulatory Review Council on August 5, 2008, in a 5 year Review Report.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a 5 Year Rule Review approved by the Governor's Regulatory Review Council.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Mariaelena Ugarte
Address: AHCCCS

Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4693

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS website www.azahcccs.gov the week of September 15, 2008. Please send written comments to the above address by 5:00 p.m., November 10, 2008. E-mail comments will also be accepted during this timeframe.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: November 10, 2008

Time: 10:00 a.m.

Location: AHCCCS
701 East Jefferson
Phoenix, AZ 85034

Nature: Public Hearing

Date: November 10, 2008

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-Term Care System
1010 N. Finance Center Dr, Suite 201
Tucson, AZ 85710

Nature: Public Hearing

Date: November 10, 2008

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-Term Care System
3480 East Route 66
Flagstaff, AZ 86004

Nature: Public Hearing

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rules:

None.

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

Section

R9-28-1301. General Freedom to Work Requirements

R9-28-1302. General Administration Requirements

R9-28-1303. Application for Coverage

R9-28-1304. Notice of Approval or Denial

R9-28-1305. Reporting and Verifying Changes

R9-28-1307. Notice of Adverse Action Requirements

R9-28-1308. Request For Hearing

R9-28-1309. ~~Social Security Number~~ Conditions of Eligibility

R9-28-1310. ~~State Residency~~ Repealed

R9-28-1311. ~~Citizenship and Immigrant Status~~ Repealed

R9-28-1312. ~~Age~~ Repealed

R9-28-1313. Premium Requirements

R9-28-1314. Income Repealed

R9-28-1315. Living Arrangement Repealed

R9-28-1316. Institutionalized Person

R9-28-1317. ~~Medical Eligibility~~ Repealed

R9-28-1318. ~~Non Payment of Premium~~ Repealed

R9-28-1319. ~~Applicant and Member Responsibility~~ Repealed

R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group

R9-28-1322. ~~Premium Amount~~ Repealed

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 13. FREEDOM TO WORK

R9-28-1301. General Freedom to Work Requirements

~~Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:~~

- ~~1. At least 16 years of age, but less than 65 years of age,~~
- ~~2. Employed, and~~
- ~~3. Not income or resource eligible under A.R.S. § 36-2934.~~

The Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, and R9-22-1901.

R9-28-1302. General Administration Requirements

~~The Administration shall comply with the confidentiality rule under R9-28-401(H), Title VI compliance rule under R9-28-401(I) and transitional rule under R9-28-411(E). Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified R9-22-512(C).~~

R9-28-1303. Application for Coverage

- A. A person may apply by submitting ~~a signed~~ an application to an Administration office.
- B. The application date is the date the application is received at an Administration office.
- C. The provisions of A.A.C. ~~R9-22-1405(B), (C), and (E)~~ R9-22-1406 (B) and (D) apply to this Section.
- D. An applicant or representative who files an application may withdraw the application for coverage either orally or in writing. The Administration shall send an applicant withdrawing an application a denial notice under R9-28-1304.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

R9-28-1304. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
 - a. The effective date of eligibility,
 - b. The amount the person shall pay, and
 - c. An explanation of the person's hearing rights specified in ~~Article 8 of this Chapter~~ 9 A.A.C. 34.
2. If denied, ~~R9-28-401(G)(2)~~ R9-28-401.01(G)(2) applies.

R9-28-1305. Reporting and Verifying Changes

An applicant or member shall report ~~changes;~~ as described under R9-28-411(A)(2), (3), (4), and (5), to the Administration ~~the following changes;~~ , including any changes in the spouse's income that may affect the share of cost.

- ~~1. Change of address;~~
- ~~2. Change in income;~~
- ~~3. Change in employment status;~~
- ~~4. Change in school attendance if under age 22;~~
- ~~5. Change in Arizona state residency;~~
- ~~6. Change in first or third party liability which may contribute to the payment of all or a portion of the person's medical costs;~~
- ~~7. Admission to a public institution;~~
- ~~8. Admission to an Institution for Mental Disease;~~
- ~~9. Improvement in the person's medical condition;~~
- ~~10. Death;~~
- ~~11. Change in U.S. citizenship or immigrant status;~~
- ~~12. Change in disability status;~~
- ~~13. Change in spouse's income that may affect the share of cost;~~
- ~~14. Change in impairment related work or other expenses, or~~
- ~~15. Any other change that may affect the member or applicant's eligibility or share of cost.~~

R9-28-1307. Notice of Adverse Action Requirements

- A. The requirements under R9-28-411(D)(1) apply.
- B. Advance notice of a change in eligibility, share of cost, or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to:
1. Discontinue eligibility,
 2. Increase a person's share-of-cost;
 3. Increase the premium amount, or
 4. Reduce benefits from ALTCS to acute care services.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
 2. A member provides information that requires termination of eligibility or reduction of services, indicates that he or she understands that this must be the result of supplying that information and a member signs a written statement waiving advance notice;
 3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
 4. A member has been admitted to a public institution where a person is ineligible for coverage;
 5. A member has been approved for Medicaid in another state; or
 6. The Administration receives information confirming the death of a member.

R9-28-1308. Request for Hearing

An applicant or member may request a hearing under 9 A.A.C. 34. Article 8 of this Chapter for the following adverse actions:

- ~~1. The determination of a premium amount under R9-28-1322, and~~
- ~~2. Actions listed in R9-28-803.~~

R9-28-1309. ~~Social Security Number~~ Conditions of Eligibility

~~As a condition of eligibility, an applicant shall furnish a valid SSN.~~

The Administration requires the following conditions be met by an applicant or member in order to qualify for the Freedom to Work program:

1. Furnish a valid SSN.
2. Be a resident of Arizona.
3. Be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).
4. Be at least 16 years of age, but less than 65 years of age.
5. Have countable income that shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
 - a. The unearned income of the applicant or member shall be disregarded;
 - b. The income of a spouse or other family members shall be disregarded; and
 - c. The deduction for a minor child shall not apply.
6. Reside in a living arrangement defined under R9-28-406(A).
7. Be determined as disabled by meeting the medical criteria under Article 3 of this Chapter.
8. Comply with the member responsibility provisions under R9-22-1502(D) and R9-22-1502(F).

R9-28-1310. State Residency Repealed

~~As a condition of eligibility, an applicant or member shall be a resident of Arizona.~~

R9-28-1311. Citizenship and Immigrant Status Repealed

~~As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).~~

R9-28-1312. Age Repealed

~~As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.~~

R9-28-1313. Premium Requirements

~~As a condition of eligibility, an applicant or member shall pay the premium required under R9-28-1322.~~

A. An applicant or member must comply with the following premium requirements:

1. Pay the premium required under (B).
2. Not have any unpaid premiums that exceed the premium amount for one month.

B. The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:

1. A member who has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

R9-28-1314. Income Repealed

~~As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:~~

- ~~1. The unearned income of the applicant or member shall be disregarded,~~
- ~~2. The income of a spouse or other family members shall be disregarded, and~~
- ~~3. The deduction for a minor child shall not apply.~~

R9-28-1315. Living Arrangement Repealed

~~As a condition of eligibility, an applicant or member shall reside in a living arrangement defined under R9-28-406(A).~~

R9-28-1316. Institutionalized Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by ~~with~~ CMS.

R9-28-1317. Medical Eligibility Repealed

~~As a condition of eligibility, an applicant or member shall meet the medical criteria under Article 3 of this Chapter.~~

R9-28-1318. Non-Payment of Premium Repealed

~~As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-28-1322.~~

R9-28-1319. Applicant and Member Responsibility Repealed

~~As a condition of eligibility, an applicant or member shall comply with the provisions under A.A.C. R9-22-1502(D) and R9-22-1502(F).~~

R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group

~~As a condition of eligibility, An an applicant or member shall meet the following eligibility criteria:~~

- ~~1. Disabled. An applicant or member shall meet the requirements under Article 3 of this Chapter.~~
- ~~2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant's or member's work.~~

R9-28-1322. Premium Amount Repealed

~~The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~

- ~~1. A member who resides in a HCBS setting under R9-28-406(A)(2) and has countable income:
 - ~~a. Under \$500, the monthly premium payment shall be \$0.~~
 - ~~b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~~~
- ~~2. The premium for a member who resides in a HCBS setting under R9-28-406(A)(2) shall be increased by \$5 for each \$250 increase in countable income above \$750.~~
- ~~3. For a member living in a medical institution for a full calendar month, the monthly premium payment shall be \$0.~~